



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 3380-01
6 November 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 November 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 30 November 1963 at the age of 23. During the period from 19 June 1964 to 14 July 1966 you received nonjudicial punishment (NJP) on seven occasions and were convicted twice by summary court-martial (SCM) and twice by special court-martial (SPCM). Your offenses were dereliction of duty, three periods of unauthorized absence (UA) totalling nine days, two specifications of sleeping on watch, two periods of absence from your appointed place of duty, two specifications of disorderly conduct, three specifications of failure to obey a lawful order, and wrongful appropriation of a radio valued at \$16.

On 1 November 1966 you were convicted by SPCM of two periods of UA totalling 76 days and breaking restriction. You were sentenced to confinement at hard labor for four months, a \$80 forfeiture of pay, and a bad conduct discharge (BCD). On 24 January 1967 you submitted a written request for immediate execution of the BCD. On 8 February 1967, while awaiting discharge, you were convicted by civil authorities of interstate transportation of a stolen vehicle and sentenced to probation for

six years. Subsequently, the BCD was approved at all levels of review, and on 10 March 1967 you were so discharged.

On 5 November 1976, upon completion of alternate service and in accordance with a recommendation of the Presidential Clemency Board, your BCD was changed to a clemency discharge pursuant to Presidential Proclamation 4313. On 26 January 1978 you were issued a clemency discharge certificate.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, character reference letters, and your contention that the presidential pardon and clemency you received in 1978 automatically upgraded your BCD to a general discharge. Nevertheless, these factors and contention were not sufficient to warrant recharacterization of your discharge because of the frequency and seriousness of your misconduct. Further, the Board noted that the BCD was only changed to a clemency discharge, and concluded that a further change was not warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director